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8 *d/b/a Rio Las Vegas Hotel & Casino*

9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 KEVIN WESLEY SPARKS, an individual,

13
14 Plaintiff,

15 vs.

16 RIO PROPERTIES, LLC, d/b/a RIO LAS VEGAS
17 HOTEL & CASINO, a Domestic Limited-Liability
18 Company; DOES 1-10, and ROE CORPORATIONS
1-10, inclusive,

19 Defendants.

CASE NO.:

**DEFENDANT RIO PROPERTIES,
LLC, dba RIO LAS VEGAS HOTEL
& CASINO,'S NOTICE OF
REMOVAL**

20 TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
21 THE DISTRICT OF NEVADA

22 Defendant, Rio Properties, LLC, dba Rio Las Vegas Hotel& Casino (the "Rio"), by and
23 through its attorneys of record, Hall Jaffe & Clayton, LLP, hereby removes this action to the
24 United States District Court for the District of Nevada. The basis of removal is as follows:

25 1. Pursuant to the provisions of 28 U.S.C. § 1331, this Court has original jurisdiction
26 over the subject matter of this action based upon the fact that this matter involves a federal
27 question. In general, this lawsuit involves a claim where a guest was purportedly denied access
28 to a room that was designed and constructed consistent with the provisions of the Americans with

1 Disabilities Act (“ADA”), and was injured while occupying a non-ADA room, even though
2 Plaintiff allegedly reserved an ADA compliant room.

3 2. More specifically, in Plaintiff’s Amended Complaint he alleges that at the time of
4 the underlying incident he “was and is a handicapped person, a quadriplegic, within the meaning
5 of CRS 42-3-204.” Plaintiff also alleges that the Rio is a place of “public accommodation because
6 it is a private entity that owns, leases to, and operates places of public accommodations, as defined
7 by 42 U.S.C. 12181(6), (7) and 28 C.F.R. 36.104.” He also alleges that he reserved a
8 “handicapped accessible room,” but because the Rio allegedly “overbooked” and gave his
9 reserved room to another guest, the Rio provided him with a “non-accessible room as an
10 alternative.” Plaintiff then allegedly injured himself because Rio did not provide “an accessible
11 room to an obviously handicapped individual.” Plaintiff further alleges, among other things, that
12 the Rio violated various provisions within the ADA, and its governing regulations, including 2010
13 ADA Standards; 2004 ADAAG 36 C.F.R. 1191, Chapter 3, Secs. 304, 305, 306, 307, and 36 CFR
14 1191, Chapter 8, Sec. 806, 806.2.1; 806.2.4; and 806.2.6. Thus, because this case involves the
15 interpretation, construction, and application of various federal laws, statutes, and code provisions,
16 federal question jurisdiction exists with this Court and removal on that basis is proper.

17 3. The Notice of Removal is timely. Service of Plaintiff’s First Amended Complaint
18 upon the Rio was personally performed on the Rio’s registered agent for service of process, CSC,
19 on July 16, 2020.

20 4. Copies of Plaintiff’s First Amended Complaint, Amended Summons, and Proof of
21 Service, are attached hereto as “Exhibit A – Service Documents.” These are the only documents
22 served upon the Rio.

23 5. Defendant has concurrently filed a copy of this Notice of Removal with the Clark
24 County District Court Clerk and has served a copy upon Plaintiff.


25 6. There are no other defendants besides the Rio in this action; thus, there are no
26 others who could join in the removal.

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1 Based on the foregoing, the Rio hereby removes the above action now pending in District
2 Court, Clark County, Nevada, Case No. A-20-817105-C, to this Court.

3 DATED this 12th day of August, 2020.

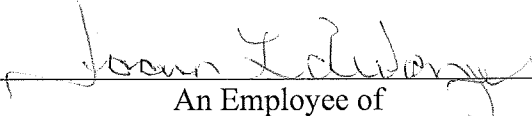
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CERTIFICATION OF SERVICE

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, I hereby certify that I am an employee of HALL JAFFE & CLAYTON, LLP and on the 12 day of ^{August} ~~July~~ 2020, I served the foregoing **DEFENDANT RIO PROPERTIES, LLC, dba RIO LAS VEGAS HOTEL & CASINO,'S NOTICE OF REMOVAL** on the following parties by U.S. Mail, and by electronic transmission through the Court's e-filing and service program, addressed to the following:

ROBERT W. COTTLE, ESQ.
THE COTTLE FIRM
8635 S. Eastern Avenue
Las Vegas, NV 89123
Attorneys for Plaintiff


An Employee of
HALL JAFFE & CLAYTON, LLP